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14  
15 **UNITED STATES DISTRICT COURT**  
16 **DISTRICT OF NEVADA**

17 *In re J&J Investment Litigation*

Case No. 2:22-cv-00529-GMN-NJK

18 **STIPULATION AND ~~PROPOSED~~**  
19 **ORDER REGARDING MOTION TO**  
20 **COMPEL BRIEFING SCHEDULE**

21 **First Request**

22 Judge: The Hon. Gloria M. Navarro  
The Hon. Nancy J. Koppe  
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1 Plaintiffs Barret Henzel, Allan Carso, Gary Lundin, Joshua Luekenga, Craig Rodney  
 2 Michaelis, Bryce Kelly, Clint McDaniel, and Dan Michael (collectively, “Plaintiffs”) and  
 3 Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) (collectively, the “Parties”) jointly submit this  
 4 Stipulation and [Proposed] Order for its first request to modify the briefing schedule on Plaintiff’s  
 5 Motion to Compel Discovery Under Fed. R. Civ. P. 37(a)(3)(B)(iv) (ECF No. 62). Wells Fargo  
 6 has requested a modification to the briefing schedule because the disputes implicate the Bank  
 7 Secrecy Act (“BSA”) and requirements relating to the federal suspicious activity report (“SAR”)   
 8 privilege—issues of significant importance to Wells Fargo and its regulators that enforce these  
 9 requirements. Plaintiffs do not oppose this request, but otherwise do not take a position on Wells  
 10 Fargo’s request. Plaintiffs withdraw their request for an extension on the reply brief. In support  
 11 of the stipulation and request for modification of the briefing schedule, and pursuant LR 7-1 and  
 12 LR IA 6-2, the Parties state as follows:

13 1. On January 17, 2023, Plaintiffs filed a Motion to Compel Discovery under Fed. R.  
 14 Civ. P. 37(a)(3)(B)(iv) (“Motion”).

15 2. Plaintiffs’ Motion places at issue seven requests (Nos. 1, 13-17, 19) from their First  
 16 Set of Production of Documents and seeks discovery regarding (i) account-opening procedures,  
 17 (ii) account-monitoring systems, (iii) account reviews and investigations by bank personnel, and  
 18 (iv) corporate policies and procedures. *See* Motion at 8.

19 3. In Wells Fargo’s responses to Plaintiff’s First Set of Requests for Production of  
 20 Documents (“RFP Responses”), Wells Fargo objected and asserted the SAR privilege, stating that  
 21 Plaintiffs sought disclosure of information relating to statutory and regulatory requirements for  
 22 detecting and reporting potentially suspicious transaction activity as described in the BSA, 31  
 23 U.S.C. § 5318, pursuant to 12 C.F.R. § 21.11, 31 C.F.R. § 103.18, 31 U.S.C. § 5318(g)(2)(A)(i),  
 24 and applicable regulatory guidance.

25 4. Wells Fargo contends that under the BSA, banks are required to file a SAR when  
 26 they detect a known or suspected violation of federal law or a suspicious transaction relating to  
 27 money laundering or terrorist financing. *See* 12 C.F.R. § 21.11. It is Wells Fargo’s position that  
 28 the scope of the SAR privilege implicates extremely sensitive information that should be given the

utmost care and consideration because federal law prohibits a bank from disclosing a SAR or whether a SAR has been filed. *See, e.g.*, 31 U.S.C. § 5318(g)(2); 12 C.F.R. § 21.11(k).

5. Wells Fargo has requested a one-week extension to file its opposition to Plaintiff's Motion.

6. Wells Fargo contends that good cause exists to modify the briefing schedule because (i) the Parties' disputes concerning the scope of the SAR privilege and the requirements under the BSA involve a sensitive area of law with federal prohibitions, regulator interest, and public policy considerations, (ii) there is conflicting case law outside of this Circuit on these issues, and (iii) Wells Fargo has requested a limited extension of time of seven days.

7. Wells Fargo requests modification of the current briefing schedule on the Motion as follows:

Event	Current Deadline	Proposed New Deadline
Wells Fargo Response to Plaintiff's Motion	January 31, 2023	<b>February 7, 2023</b> , or on another date convenient for the Court
Plaintiffs' Reply to Wells Fargo's Response	February 7, 2023	<b>February 14, 2023</b> , or on another date convenient for the Court.
Hearing on the Motion	None Set	<b>No Change</b>

8. Plaintiffs, without joining in Wells Fargo's characterizations in of the BSA in paragraph 4 above, take no position on Wells Fargo's request and do not seek an extension for their reply brief. If the Court approves this stipulation, Plaintiffs will reply to Wells Fargo's opposition within the time contemplated by Local Rule 7-2(b)—seven days after service of the response. In other words, should the Court grant Wells Fargo's request for an extension for its opposition to February 7, 2023, Plaintiff will respond no later than February 14, 2023.

9. The Parties reached this stipulation in good faith and not for purposes of delay.

NOW THEREFORE, the Parties hereby stipulate, and respectfully request that the Court order, as follows:

1. Wells Fargo's response deadline to Plaintiffs' Motion to Compel Discovery is extended up to and including February 7, 2023.

2. Plaintiffs' deadline to reply to Wells Fargo's response, consistent with the time allocated for reply in the Local Rules, is due February 14, 2023.

Dated: January 27, 2023

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IT IS SO ORDERED.  
Dated: January 30, 2023

  
\_\_\_\_\_  
Nancy J. Koppe  
United States Magistrate Judge

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